

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Bar No. 4027
Debra L. Spinelli, Bar No. 9695
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101
Email: jjp@pisanellibice.com
Email: dls@pisanellibice.com

Jonathan D. Polkes (*pro hac vice pending*)
Stephen A. Radin (*pro hac vice pending*)
Caroline Hickey Zalka (*pro hac vice pending*)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: 212.310.8000
Facsimile: 212.310.8007
Email: jonathan.polkes@weil.com
Email: stephen.radin@weil.com
Email: caroline.zalka@weil.com

Attorneys for Defendants Georges Antoun,
Kevin DeNuccio, Sarita James, Jay Leupp,
Merrick D. Okamoto, Said Ouissal, Simeon
Salzman, and Fred Thiel, and Nominal Defendant
Marathon Digital Holdings, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIMBERLY BERNARD, Derivatively on Behalf
of MARATHON DIGITAL HOLDINGS, INC.
(f/k/a MARATHON PATENT GROUP, INC.),

Plaintiff,

v.

FRED THIEL, GEORGES ANTOUN, KEVIN
DENUCCIO, SARITA JAMES, JAY LEUPP,
SAID OUISSAL, MERRICK D. OKAMOTO, and
SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Nominal Defendant.

Case No.: 2:22-cv-00305-JAD-VCF

**DECLARATION OF DEBRA L.
SPINELLI IN SUPPORT OF
MOTION TO DISMISS**

I, Debra L. Spinelli, declare the following:

1. I am a resident of the State of Nevada, and partner of the firm Pisanelli Bice PLLC, counsel for Defendants Georges Antoun, Kevin DeNuccio, Sarita James, Jay Leupp, Merrick D. Okamoto, Said Ouissal, Simeon Salzman, and Fred Thiel, and Nominal Defendant Marathon Digital Holdings, Inc. in the above-captioned matter.

2. I submit this declaration in support of the Motion to Dismiss filed together with this declaration.

3. True and correct copies of the following documents cited in the accompanying Motion to Dismiss are attached as Exhibits A through F:

| <u>EXHIBIT</u> | <u>DESCRIPTION</u> |
|----------------|--|
| A | Apr. 30, 2021 Marathon Form 8-K |
| B | Jan. 22, 2021 Marathon Form 8-K |
| C | May 26, 2021 Marathon Form 8-K |
| D | Aug. 11, 2021 Marathon Form 8-K |
| E | Complaint, <i>Schlatre v. Marathon Digital Holdings, Inc.</i> , No. 2:21-cv-2209 (D. Nev.) |
| F | Aug. 19, 2021 Marathon Form S-8 and Ex. 3.1 (Articles of Incorporation). |

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based upon my knowledge, information and belief.

Executed on: April 4, 2022

/s/ Debra L. Spinelli
Debra L. Spinelli